

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Verizon Communications Inc. ("Verizon") and MCI, Inc. ("MCI") to Transfer Control of MCI's California Utility Subsidiaries to Verizon, Which Will Occur Indirectly as a Result of Verizon's Acquisition of MCI.

(U 39 M)

Application 05-04-020
(Filed April 21, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING EXHIBITS, MOTIONS, AND SUBMISSION**

Qwest Communications Corporation (Qwest) on August 31, 2005, suggested a procedure by which parties could identify proposed exhibits (specifically, responses to discovery) that they attach to their briefs for receipt of such exhibits into the record, absent objections or motions to strike. Qwest proposed that the procedure be adopted if hearings in this proceeding are not held or if hearings are abbreviated when the Assigned Commissioner's Ruling on hearings is issued on or about September 19, 2005.

Parties were invited to comment by electronic mail by September 6, 2005. The Commission has received comments from eight parties, most of them raising no objection to some manner of identifying exhibits intended to be marked for identification and subsequently included in the record. At the same time, The Utility Reform Network (TURN) and others argued that live hearings and cross-examination are necessary, and that their comments on Qwest's exhibit proposal should in no way affect the Commission's determination of the necessity for hearings. In that regard, Level 3 Communications, LLC (Level 3) commented:

Level 3 believes that it and the other parties to this case will be denied fundamental due process rights if there is no hearing and no cross-examination of witnesses in this significant case. Written discovery and a method of entering the results of that discovery into the record are by no means a substitute for the right to confront live witnesses and to ask them oral questions at a hearing. Level 3 is concerned that by agreeing to a plan to admit discovery, Level 3 would be condoning, in effect, the ability of the Commission to conduct a full and fair proceeding without conducting a live hearing. The information obtained on cross-examination of SBC and AT&T witnesses at the SBC-AT&T hearing bears this out, as will be seen shortly in briefing in that case. For this reason, Level 3 declines to take a position with respect to the means of admission of discovery without a hearing. (Level 3 electronic response, September 6, 2005.)¹

Attachment A to this ruling marks for identification exhibits (primarily testimony) received in hard copy to date. Exhibits are listed by party name and in 1-2-3 order, with confidential documents identified with an added “(c)” notation to show that they have been served under seal (i.e., Verizon/MCI Ex. 1; TURN Ex. 2(c)). The exhibits so marked for identification are those in which hard copies have been received by the Administrative Law Judge (ALJ) (see Rule 2.3.1(f) of the Rules of Practice and Procedure (Rules)). Any party with served testimony or exhibits not shown on Attachment A is asked to promptly serve a hard copy of the document or documents on the ALJ and (if it has not

¹ The position of Level 3 is noted. Substantively, however, the need for hearings (with citations to facts and precedent) should be addressed in the September 14 motion on the need for hearings and the September 16 reply to motion on need for hearings. These dates were set in the Assigned Commissioner’s Ruling of July 26, 2005 that granted an extension of time in filing of reply testimony and provided further notice that parties should not anticipate that hearings or cross-examination will be available in this proceeding.

already done so) an electronic copy on the service list so that the Exhibit List may be complete.

Hereafter, as parties prepare rebuttal testimony, opening briefs and reply briefs, a document that a party seeks to have identified as an exhibit should be marked with the next exhibit number in that party's series (and, in the case of briefs, attached to the brief), along with an attestation or declaration under penalty of perjury that, in the case of briefs, the proposed exhibit is a true and correct copy of what is described in the brief. (See Rule 2.4.) If testimony or a brief includes confidential material, both the redacted and unredacted versions of the documents and attachments shall be served on the ALJ.² Other parties may file and serve electronically objections or motions to strike a particular exhibit within two business days.

For expediency, this procedure for identifying exhibits is adopted without regard to whether hearings or abbreviated hearings will be conducted. This ruling will have no effect on the decision regarding hearings.

IT IS RULED that:

1. Attachment A is adopted as the Preliminary Exhibit List in this proceeding.
2. In rebuttal testimony, opening briefs and reply briefs, a document that a party seeks to have identified as an exhibit should be marked with the next exhibit number in that party's series (see Attachment A) and, as to briefs, attached to the brief, along with an attestation or declaration under penalty of perjury that the proposed exhibit is a true and correct copy of the testimony or of what is described in the brief. If the testimony or brief includes confidential

² The parties have agreed on varying degrees of confidentiality. Each party should determine which other parties should receive an unredacted copy of a brief or exhibit.

material, both the redacted and unredacted versions of the testimony or briefs and attachments shall be served on the ALJ.

3. A party that objects to the receipt of an exhibit may within two business days file and electronically serve its objection or motion to strike.

Dated September 12, 2005, at San Francisco, California.

/s/ GLEN WALKER
Glen Walker
Administrative Law Judge

ATTACHMENT A**PRELIMINARY EXHIBIT LIST IN A.05-04-020**

Exhibit No.	Description of Exhibit	Witness	Date Ident	Recd
<u>Verizon/MCI</u>				
Verizon/MCI 1	Agreement/Plan of Merger		4/21/05	
Verizon/MCI 2	Amendment to Plan of Merger		4/21/05	
Verizon/MCI 3	Declaration	McCallion	4/21/05	
Verizon/MCI 4	Declaration (redacted)	Hallbach	4/21/05	
Verizon/MCI 4(c)	Declaration	Hallbach	4/21/05	
Verizon/MCI 5	Declaration	Rubinfeld	4/21/05	
Verizon/MCI 5(c)	Declaration	Rubinfeld	4/21/05	
Verizon/MCI 6	Declaration	Smith	4/21/05	
Verizon/MCI 6(c)	Declaration	Smith	4/21/05	
Verizon/MCI 7	Certificate of Incorporation		4/21/05	
Verizon/MCI 8	Verizon 2004 Annual Report		4/21/05	
Verizon/MCI 9	Verizon Form 10-K		4/21/05	
Verizon/MCI 10	Verizon Form 10-Q		4/21/05	
Verizon/MCI 11	Cal. Certificate of Good Standing		4/21/05	
Verizon/MCI 12	Del. Certificate of Good Standing		4/21/05	
Verizon/MCI 13	MCI Form 10-K		4/21/05	
Verizon/MCI 14	MCI Form 10-Q		4/21/05	
Verizon/MCI 15	MCI Pro Forma		4/21/05	
Verizon/MCI 16	MCI 2004 Annual Report		4/21/05	
Verizon/MCI 17	MCI Affiliate Transaction Report		4/21/05	
Verizon/MCI 18	AB 119		4/21/05	
Verizon/MCI 19	Proposed Schedules		4/21/05	

TURN

TURN 1	Reply Testimony (redacted)	Murray/Kientzle	8/15/05
TURN 1(c)	Reply Testimony	Murray/Kientzle	8/15/05
TURN 2	Reply Testimony (redacted)	Roycroft	8/15/05
TURN 2(c)	Reply Testimony	Roycroft	8/15/05
TURN 3	Reply Testimony	Finkelstein	8/15/05

Office of Ratepayer Advocates

ORA 1	Reply Testimony (redacted)	Selwyn	8/15/05
ORA 1(c)	Reply Testimony	Selwyn	8/15/05
ORA 2	Reply Testimony (redacted)	Piiru	8/15/05
ORA 2(c)	Reply Testimony	Piiru	8/15/05
ORA 3	Reply Testimony (redacted)	Lee-Whei Tan	8/15/05

A.05-04-020 GEW/hkr

ORA 3(c)	Reply Testimony	Lee-Whei Tan	8/15/05
ORA 4	Reply Testimony	Johnston	8/15/05

Cox

Cox 1	Reply Testimony	Gillan	8/15/05
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CALTEL

CALTEL 1	Testimony	Gillan	8/15/05
CALTEL	Reply Testimony	Wood	8/15/05

Latino Issues Forum

LIF 1	Expert Testimony	Chabran	8/15/05
LIF 2	Expert Testimony	Arteaga	8/15/05

Greenlining Institute

Greenlining 1	Testimony	Phillips	8/15/05
Greenlining 2	Testimony	Gamboa	8/15/05

Qwest

Qwest 1	Testimony	Axberg	8/15/05
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Telscape

Telscape 1	Testimony (redacted)	Compton	8/15/05
Telscape 1(c)	Testimony	Compton	8/15/05

Disability Rights Advocates

DRA 1	Testimony (redacted)	Kasnitz/Knestrick	8/15/05
DRA 1(c)	Testimony	Kasnitz/Knestrick	8/15/05

Pac-West

Pac-West 1	Reply Testimony	Sumpter	8/15/05
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Level 3

Level 3 Ex. 1	Reply Testimony	Vidal	8/15/05
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CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Exhibits, Motions, and Submission on all parties of record in this proceeding or their attorneys of record.

Dated September 12, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.